

Meeting of 2005-4-19 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING  
APRIL 19, 2005 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   John Vincent, City Attorney  
   Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Rex Givens, Ward Two

   Amy Ewing-Holmstrom, Ward Four (Arrived at 6:07 p.m.)  
   Robert Shanklin, Ward Five

Jeffrey Patton, Ward Six (Arrived at 6:42 p.m.)  
   Stanley Haywood, Ward Seven  
   Randy Warren, Ward Eight

ABSENT:                      Glenn Devine, Ward Three

BUSINESS ITEMS:

1. Consider rescinding contract for Police Special Services SUV (CL05-035). Exhibits: Department recommendation.

Mitchell stated Billingsley Ford is unable to fulfill this contract because Ford Motor Company has decided not to manufacture any additional fleet vehicles for 2005.

MOVED by Shanklin, SECOND by Haywood to rescind the contract for Police Special Services SUV to Billingsley Ford. AYE: Shanklin, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

2. Consider approving a resolution placing a moratorium on the issuance of sign permits for the construction and erection of billboards and off-premises advertising signs in excess of 300 square feet within the city limits from April 20, 2005 until October 20, 2005 or until the enactment of an ordinance amending the sign regulations for the city, whichever occurs first. Exhibits: Resolution No. 05-\_\_\_\_.

Mayor Purcell stated he placed this item on the agenda to stop any additional signs from popping up all over the city until they can bring back a sign ordinance. There is a change from the ordinance that went out in the packets.

The City Attorney distributed a substitute resolution, which included billboard signs, off premise advertising signs and signs in excess of 300 square feet.

Givens stated the sign committee has met and have put all the information in a chart which should come to the City Council the first or second meeting in May. He said the committee consisted of members from the Chamber, real estate industry, sign industry and City Council members Givens and Patton. So far everything has been unanimous coming from this committee, which is a very good sign.

MOVED by Givens, SECOND by Shanklin, to approve Substitute Resolution 05-63. AYE: Haywood, Shanklin, Warren, Shoemate, Givens, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

Mayor Purcell stated the next three items would be addressed as a group. There are several people who want to speak on these items and suggested limiting each person to five minutes.

Givens stated there needs to be clarification on both the water system capacity fee and the sewer system capacity fee. The word residential means all residential which includes single family detached, duplex and attached

multifamily units.

3. Consider adopting Ordinance Number 05-\_\_ repealing and replacing Division 2, Article 2, Chapter 22, Lawton City Code, 1995, establishing a water system capacity fee for all new taps; its application to new and amended water sales contracts; providing standards and criteria for water main extensions and lease-purchase agreements with developers to recover the costs and declaring an emergency. Exhibits: Ordinance No. 05-\_\_\_\_, Proposed Fee Schedule, Commentary from October 12, 2004 and extract of minutes, Public Works Development Cost Study dated July 29, 2004 send under separate cover and Minutes from March 22, 2005 meeting.

4. Consider adopting Ordinance Number 05-\_\_ creating Division 22-3-14, Article 3, Chapter 22, Lawton City Code, 1995, establishing a sewer system capacity fee for all new taps; providing standards and criteria for sewer main extensions and lease-purchase agreements with developers to recover the costs and declaring an emergency. Exhibits: Ordinance No. 05-\_\_\_\_, Proposed Fee Schedule, Commentary from October 12, 2004 and extract of minutes, Public Works Development Cost Study dated July 29, 2004 send under separate cover and Minutes from March 22, 2005 meeting.

5. Consider a resolution creating water and sewer capacity fees in Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995. Exhibits: Resolution No. 05-\_\_\_\_.

Mayor Purcell asked anyone wishing to speak on these items to please step forward and state their name and address.

Nick Richards, 38 SE 6<sup>th</sup> Street, stated the Lawton Homebuilder reviewed the ordinance submitted on March 14<sup>th</sup>. They found many flaws with the content and fee schedule. He handed out a revised ordinance prepared by the Homebuilders Association.

Givens questioned if Mr. Richards was speaking on behalf of the Homebuilders Association.

Mr. Richards stated he was a board member. The Lawton Homebuilders organization and the board have reviewed the documents and are in agreement.

Mayor Purcell clarified that the City Council will not be taking any action tonight, this is just input to modify the ordinance that will be on the agenda for the April 26<sup>th</sup> meeting.

Mr. Richards stated they believe they have a palatable fee schedule in their proposed ordinance. What is more important to this community is where they will spend the impact fees. If infrastructure is being pushed to Cache, they will kill the downtown area. He feels the southeast water treatment plant should be built soon. An asset to the plant would be the nine-mile sewer line. It will help stabilize downtown.

Givens stated they are talking about impact fees with this ordinance, not the water treatment plant. He asked Mr. Richards to stick to the subject.

Mr. Richards asked where the money would be spent from these fees.

Givens stated there are a lot of new sewer and water lines that will be needed for new development.

Mr. Richards stated that under their proposed ordinance the power would be vested with the City Council, not staff. The money will be in a separate bank account with an oversight committee composed of the Public Works Director, two City Councilmembers, two representatives from the Lawton Homebuilders Association, two developers, one representative from the Chamber of Commerce, one member from the Comanche County Industrial Authority and one member from a financial institution that specializes in public finance. He stated in the original ordinance the city claimed no responsibility in helping ensure the developer was repaid. Their proposed ordinance says the city will not allow any connections to the line that a developer has paid for until the developer is paid for the connection. Their ordinance is more user friendly and is in the best interest for future growth. The main issue is still where the money will be spent. He stated the city is killing the downtown area by pushing too far west and not balancing the town. There are three major banks, City Hall, Library, Police Department and the Courthouse all downtown and they are letting the area die.

Warren questioned how much would be brought in a year under the fee schedule in the homebuilders proposed ordinance.

Richards stated the city would bring in \$240,000.

Ron Nance, 7619 Wyatt Lake Drive, stated he is also a board member of Lawton Homebuilders Association. He stated it is important to members of their board to have a fee schedule that they can live with. They did not try to change the fee schedule for commercial developments. Most of the developers coming in to town already expect

these fees. They realize that the proposed oversight committee will only make recommendations to the City Council with the City Council having the final decision.

Shanklin stated he agreed with Mr. Nance and clarified that the fund will be used to pay some of the interest on a bond issue. He feels that those who are contributing to the growth in Lawton should also help pay.

Mr. Nance stated he felt the oversight committee could help determine what projects were put in the program.

Mayor Purcell clarified the recommendations from the Homebuilders Association are: 1) they want the funds in a separate bank account, 2) an oversight committee and 3) fees are 1 and below - \$600 per house for both water and sewer up to eventually \$1,000 per house in five years. The Mayor questioned how many homes were built in Lawton last year.

Shanklin stated 115.

Mayor Purcell stated in five years they would only be collecting \$115,000 in five years. That is not going to do much for infrastructure.

Mr. Nance said he is concerned that there are only a handful of individuals in town that are going to pay. The amount is not enough to do much for infrastructure anyway. He said Ft. Sill has come up with a housing study that says Lawton needs another 1,000 houses and he would like to provide that. They are at a disadvantage to those building outside the city limits because they have to pay city sales tax on the property or the materials.

Mayor Purcell questioned if they were aware there is already a CIP oversight committee in place.

Mr. Nance stated they would like to have some representation from the building industry on the committee.

Steve Barnes, President of the Lawton Homebuilders Association, stated their association formed a committee to research impact fees. They sent the proposed ordinance to their national office in Washington DC for review. They met with the City Manager and presented the proposed ordinance. He stated all through the original ordinance, the words impact fee were not used, but were referred to as capacity fees. They are requesting that the words impact fee be reinserted back in the ordinance. He said the CIP advisory committee could be used, but they feel there are many issues they feel developers and homebuilders need to be involved. He said they researched other cities and how they deal with this problem. They contacted the cities of Norman, Edmond, Oklahoma City, Tulsa and Stillwater. He has invited Carter Forey, a developer out of Oklahoma City who is head of the impact fee committee for Edmond, and Mike Means, the Executive Officer of the Oklahoma State Association of homebuilders, which has 2,700 members.

Haywood questioned why developers don't fill in with vacant areas around downtown.

Mr. Barnes stated Mr. Forey would talk about how Oklahoma City started building homes back in the center of the city. He said that requires a commitment of the residents and alternatives as far as financing. It is a lot cheaper to revitalize areas.

Carter Forey, Oklahoma City, stated there was a similar problem in Oklahoma City with inner-city growth. The builders could not sell homes that were built in the area because of the school system. The Mayor put together a group of business people from community who were able to put a person on the school board. They came to the public and put together the project MAPS for Kids, a sales tax referendum and ad valorem tax. They tore down and rebuilt several schools. Due to this project, the waiting period is over for new housing in downtown Oklahoma City. They have single-family detached homes being built in the inner city and people are moving in. They felt they had to solve the school

problem before growth would start. He stated in the 1970s Edmond had an impact fee of .16 cent per square foot that was put in the general fund. In the late 70s there was no money to fund expansion of the sewer treatment plant and they were forced to issue a moratorium on building. They found out quickly that the builders moved to other communities, which almost put the city of Edmond out of business. Through the 80s they developed an impact fee committee consisting of the Public Works Director, City Planner, several builders and developers and several citizens at large. As a developer, they are not against the fees, but they want the fees to be administered in a fair manner and go towards specific projects so they keep the money in a separate account. Just last week they implemented the last fee structure of five years. Fees for a 1 meter are \$2,177.00 for water and \$1,880 for sewer.

Givens clarified that the capacity fees in Edmond for water and sewer for a 1 meter are \$4,057.

Mr. Forey stated that is correct. In Oklahoma City they just finished a study on what 100 new homes do for the community. They used a \$150,000 home with 2,000 square feet. In the initial year the city must provide \$1.58 million dollars in capital investment for new structures and equipment. That is \$15,800 per house. The house

itself will general \$15,400 in taxes. \$1,440 in current expenses for the local government to provide public services such as fire. The analysis assumes that the government has financed these infrastructures under a 4.6% bond. In the second year, these home will continue to provide \$5,430 in tax and other revenues. The government will continue to pay \$2,870 in expenditures to provide water, sewer and fire services. This leaves \$2,560 to pay against the debt. The debt that funded these 100 houses will be paid off in 15 years. After 15 years you would have built 1,500 houses and with inflation the house will provide 6,093 in taxes and other revenues, the government expenses will be \$3,893 which leave \$2,200 per house to fund other new projects.

Mitchell questioned if the MAPS project was a one-cent sales tax.

Mr. Forey stated that project was a cent and then dips down in the advalorem.

Mayor Purcell questioned if he had the numbers on impact fees for Oklahoma City.

Mr. Forey said they did not have impact fees in Oklahoma City, but a straight building permit fee which is based on square footage. At the development stage they pay an inspection fee which is a percentage of the contract. They generate enough income to pay for the inspectors.

Mayor Purcell questioned if he knew of any other cities that have an impact fee other than Edmond.

Mr. Forey said Norman has an impact fee for storm water.

Mike Means, Executive Vice President for the Oklahoma State Homebuilders Association, stated he was also the Oklahoma County Assessor for 10 years. He said that impact fees are actually anti-development. He stated Salem, Oregon just implemented their first impact fee and have already had a 25% drop off in growth. For every home built in Edmond, there are three being built in Oklahoma City under Edmond's school system. They will build where costs are more reasonable. He served as County Assessor during the MAPS project and he said it was a process that works because of public participation. He stated other creative financing methods now taking place in Oklahoma City and starting to take place in Tulsa is the Tax Increment Finance District. The beauty of a TIF is that everyone participates, it is across the board and is funded by the growth that actually takes place. It is money in the bank rather than money you are betting on. A TIF works by setting a project base and every dollar above that base going forward because of development, and those dollars are captured and stay within that particular district. It can be used for public and private infrastructure needs. He said the biggest concern as homebuilders is that the fee will not be paid by those building the homes, but paid by those buying the house. For every \$1,000 fee increase, at 5.75% over 30 years, will cost the homebuyer an extra \$7,500. This has been proven nationwide that every \$1,000 increase in the price of the home across the nation, puts 400,000 people out of the market. One of the biggest concerns of the homebuilder today is workforce housing and minority housing. The best way to deal with this issue is to have alternative financing for the needed infrastructure and an infrastructure plan where everyone is participating.

Mitchell questioned how communities that do not receive advalorem tax fund infrastructure.

Mr. Means stated the first three TIF districts in Oklahoma City are all property tax that goes to the city. The city government, county government and the school system have to come together and agree that this is what should happen. Every new dollar in advalorem increase that takes place in bricktown goes to the City of Oklahoma.

Mitchell said he was referring to residential development.

Mr. Means stated it was the same process but it is called special assessment districts.

Shanklin questioned where were all those people who are getting priced out of the new home market.

Mr. Means stated many people move out in the county where there are no fees and no code enforcement.

Mayor Purcell stated the numbers are somewhat suspect and need to find out where the losses and gains really happened. He questioned what was the total tax in Oklahoma City with MAPS.

Mr. Means stated 8.875%.

Mayor Purcell stated Lawton is at 8.275%.

Keegan Ledford, 3802 NE Cache Road, stated over the last three to four years he has built an average of 20 houses per year. If you calculate those homes with the original proposal fees of \$3,300 per impact fee for a 1 meter, this comes to \$66,000 per year. In ten years that calculates to \$660,000 that he will have to pay. That is not even counting the permit fees which are around \$11,000 per year, and inspection fees of \$11,000 - \$13,000. They also pay \$8,800 - \$9,000 per development for park land. He stated that \$66,000 per year is too much for one individual

to do business in Lawton. It is better to find a way to lower the fees to make it more feasible to work. He questioned what money the city would contribute.

Shanklin stated they are trying to offset the future cost of the expansion of the water and wastewater treatment plant so that the residents will not be taxed again.

Mr. Ledford stated if the city has \$92 million a year to work with, there should be some money left over to help pay for this instead of the 30-40 people that will have to pay.

Mayor Purcell said there is nowhere near \$92 million in the budget, it is around \$39-\$40 million.

Mr. Ledford said out of all this conversation there has been no talk of the city putting anything in. The city should tighten their belt.

Mayor Purcell stated there was a meeting with several people who are in the audience and a figure was suggested for fees in the amount of \$2,000 (\$1,000 for water & \$1,000 for sewer) that would be reasonable. It was also suggested that this amount not come all at once. The first year fees would be \$600 and it would increase over a five-year period. That seemed to be a livable solution for the City Manager and those who were involved in the meeting. It has always been the intent of staff to place the money from these fees in a separate account not be used for maintenance.

Dana Davis, Lawton Ft. Sill Chamber of Commerce, stated the Chamber's Executive Committee has developed a proposal for commercial and industrial development. They had some difficulty getting their arms around the scope of the problem simply because they have not been able to identify a dollar amount that they believe the city will require over the next ten years in order to solve this problem. The number that has been floating around has been a need for around \$500,000 a year to be utilized to pay the interest and debt service on a bond for water and sewer lines.

Mr. Davis distributed a proposed capacity fee schedule for commercial and industrial users developed by the Chamber of Commerce.

Mr. Davis stated they would also propose the use of sales tax revenues. Take the materials that are utilized to build new homes and take a percentage of the sales tax collected and place into this separate fund. They believe that sales tax will continue to grow in Lawton. The Chamber believes that downtown redevelopment is crucial.

They would ask the City Council to create an exempt zone from Ferris to Lee and from the I-44 to 17<sup>th</sup> Street for downtown redevelopment.

Haywood questioned why they would stop at Lee Boulevard.

Mr. Davis stated he does believe there is some housing redevelopment that could occur in that area. This is something that can be modified for housing development purposes.

Mayor Purcell clarified that the recommendation from the Chamber is that the impact fees be stated on their proposed schedule relating to only commercial and industrial development. The second part of the proposal is to supplement this fund with a percentage of the sales tax revenue from the materials used in construction of new homes. The third part of the proposal is to exempt from impact fees those areas from Ferris to Lee and I-44 to 17<sup>th</sup> Street.

Warren said he understands that they are trying to protect the commercial side rather than residential, but is it really going to be a problem for a company to make a one time \$90,000 or \$100,000 payment and will it really make a difference to a company who may routinely pay \$200,000 in fines in order to keep from upgrading their equipment. They do this as a cost of business. He stated it might be more of a problem on the lower sizes.

Mr. Davis stated that a company that is looking to move into a community may ask for a waiver of the cost of the 8 meter. Somehow we would have to find a way to pay for that cost. There may be other ways that the business could pay with the money going into this fund for future development.

Curtis Hare, 14 Scenic Ridge Drive, stated he did not understand the comment that this does not pertain to outside the city limits. He said the people who live outside the city limits are concerned about what goes on in Lawton because they feel they are a part of this city. The understanding of the impact fees and how they will be used are important.

Mitchell stated there is a provision in the ordinance that would assess these impact fees to any person or entity outside the city of Lawton who wish to renew their water contract or who want to acquire water from the City of Lawton.

Mr. Hare stated he understands that impact fees are needed for the city to grow.

Al Jung, 4806 NE Winfield Circle, stated he is an engineer who works in and outside of the city. He works for some rural water districts that buy a small percentage of their water from Lawton. He questioned if there will be any consideration for some kind of adjustment of the fees based on the percentage of water provided by the city. Both rural water districts he works for uses the water only for standby and emergency purposes.

Vincent stated almost every water district surrounding the city has an existing contract with the city. Unless they come in and request an additional tap on the city system, it would not apply. This only concerns new connections.

Mayor Purcell stated he would like to summarize the issues that have been discussed. The Lawton Homebuilders Association would like to have an ordinance that 1) has an oversight committee composed of the Public Works Director, two City Councilmembers, two representatives from the Lawton Homebuilders Association, two developers, one representative from the Chamber of Commerce, one member from the Comanche County Industrial Authority and one member from a financial institution that specializes in public finance, 2) all fees deposited into a separate bank account, 3) construction projects will need to be determined by the City Council and 4) those funds would only be used for new construction, not repairs.

Mayor Purcell clarified those issues brought by the Chamber of Commerce which are 1) proposed fee schedule of 1 and less meter be \$1,000 for water and \$1,000 for sewer for industrial and commercial customers, 2) a percentage of sales tax on materials from new homes to go into the impact funds and 3) exempt the area from Ferris to Lee and I-44 to 17<sup>th</sup> Street that the City Council may choose to modify.

Givens stated it appears the homebuilders are suggesting a fee of \$600 (\$300 water/\$300 sewer) and Edmond charges over \$4,000. He questioned if the homebuilders could live with fees of \$1,000 for water and \$1,000 for sewer phased in over a five-year period. The first year starting at \$600 for water and \$600 for sewer.

Steve Barnes stated in Broken Arrow, where 700 homes a year are built, has an impact fee for both water and sewer totaling \$1,000. This was over a five-year period. They still feel their recommendation is fair.

Mayor Purcell clarified that the homebuilders are recommending \$500 for water and \$500 for sewer after five years. Start out with \$300/\$300 and eventually get to a total of \$1,000.

Givens clarified that currently Edmond charges \$4,000 and Norman is at \$3,550.

Mr. Barnes stated that they build 500 to 700 homes. Once Lawton gets that type of economy they would support those fees.

Mayor Purcell asked for some guidance to give to staff.

Shanklin questioned how many jobs there are in Lawton from 2000 to present and the number of water meters going back to 2000.

Holmstrom questioned how quickly they could get this information.

Mayor Purcell said they should have it to the City Council by the end of the week.

Shanklin would also like to know the number of gas and electric meters.

Warren questioned what difference would it make. There are developers and builders who want to build on the west and east sides and no trunk mains to support these projects. The question is how to get the money to build these lines.

Mitchell suggested that staff redraft the original ordinance to incorporate the four points outlined by the Mayor and present to the City Council in draft form. Amendments can be made by the City Council.

Warren requested from staff a general idea of the dollars that will be needed for water and sewer line expansion in the next ten years.

There being no further business to consider, the meeting adjourned at 7:55 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK

